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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

FIDEL ULLOARIVERA,

Defendant and Appellant.

A164414

(San Mateo County Super. Ct.
No. 19-NF-008722-A)

Fidel Ulloarivera appeals from a judgment following his no contest plea. His court-appointed counsel has filed a brief seeking our independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436 to determine whether there are any arguable issues on appeal. We find no such issues and affirm.

BACKGROUND

Ulloarivera lived in the home of 13-year-old M. Doe and her family, although by the time these events occurred he had moved into the garage. Doe's mother observed Ulloarivera, then 28, flirting with Doe, and found suggestive text messages between the two. Doe admitted to her mother that Ulloarivera had sexual intercourse with her on three occasions and had kissed her on the lips. She did not want to have sex with him.

During a pretext phone call, Doe's mother falsely told Ulloarivera that he had impregnated Doe. Ulloarivera responded that had fallen in love with Doe and had not meant to impregnate her. He indicated he was aware of Doe's age and later explained that it is not uncommon in his native Honduras for adult men to date young girls. He admitted to police that he had sexual intercourse with Doe approximately six times.

Ulloarivera was charged with eight counts of committing a lewd and lascivious act upon the body of a child under the age of 14. (Pen. Code § 288, subd. (a); counts one-three, seven-nine, and 14-15.)¹ As to counts one-three and seven-nine, the information alleged as enhancements that Ulloarivera had substantial sexual contact with a minor younger than 14. (§ 1203.066, subd. (a)(8).) Ulloarivera was further charged with six counts of unlawful sexual intercourse by an adult over 21 years of age with a minor under age 16 (§ 261.5, subd. (d); counts four-six and 10-12) and one count of unlawful contact with a minor with the intent to violate section 288. (§ 288.3, subd. (a); count 13.)

Ulloarivera was properly advised of his trial rights, pled no contest to counts one and two, and admitted the associated special allegations. Defense counsel stipulated to a factual basis for the plea based on his independent investigation; the prosecutor concurred. The court dismissed the remaining charges.

The court sentenced Ulloarivera to the six-year midterm on count one and a consecutive one-third the midterm sentence of two years on count two, for a total term of eight years. It reserved victim restitution and imposed a 10-year no contact order as to Doe, a \$300 restitution fine with a 10 percent collection fee, an \$80 court operations assessment, and a \$60 criminal conviction assessment. The court imposed and

¹ Undesignated statutory citations are to the Penal Code.

suspended a \$300 parole revocation restitution fine and ordered Ulloarivera to register as a sex offender (§ 290) and pay the Daly City Police Department \$700 for the cost of Doe's forensic examination. The probation officer concluded Ulloarivera was able to pay restitution based on his employment history and ability to obtain employment upon release. He was awarded 903 actual and local conduct credits.

DISCUSSION

Ulloarivera's counsel has represented that he advised Ulloarivera of his intention to file a *Wende* brief in this case and of Ulloarivera's right to submit supplemental written argument on his own behalf. Ulloarivera has not done so. He has also been advised of his right to request that counsel be relieved. This court has reviewed the entire record on appeal for potential error. No issue requires further briefing.

DISPOSITION

The judgment is affirmed.

BURNS, J.

We concur:

JACKSON, P.J.

WISEMAN, J.*

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* Retired Associate Justice of the Court of Appeal, Fifth Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.